

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner is the father of a seven-year-old son. A Vermont Family Court order dated November 27, 2007, which appears to be a modification of an earlier decree of joint custody, sets out an 11-page (!) ruling regarding "parent child contact" concerning the petitioner and the child's mother.

2. The child's mother presently receives Food Stamps for herself and the child.

3. On October 30, 2009, the petitioner applied to have the child added to his Food Stamp grant. The petitioner alleged that the court order provides that the children eat a majority of their meals each month with him. In a decision dated November 10, 2009, the Department denied the petitioner's application.

4. At the hearings the parties agreed that the terms of the court order should dictate the outcome, if that order allowed an accurate computation of the amount of meals each parent is responsible to provide the child.

5. The court order provides for a detailed "parent contact" schedule broken into three-week periods during the school year. In a memorandum dated February 12, 2010 the hearing officer informed the parties that based on his reading of the court order he was prepared to make the following findings:

a. During the school year the mother has physical custody of the child for 33 meals during each three-week cycle, and the father (petitioner) has custody for 30 meals during those periods.

b. At all other times during the year physical custody is evenly split.

6. In that memorandum the hearing officer advised the parties that based on the above it would appear that he would have to affirm the Department's decision. He gave the petitioner two weeks (until February 26, 2010) to submit any additional materials or written argument. To date, the Board has received nothing further in the matter.

ORDER

The Department's decision denying the petitioner's application for Food Stamps for his son is affirmed.

REASONS

The Food Stamp regulations define a household to include a parent "living with" their children. W.A.M. § 273.1(a)(2)(i)(C). Inasmuch as there is no mechanism in the regulations to pro-rate Food Stamps between more than one household, the Board has repeatedly upheld the Department's policy in such cases of determining where children eat a majority of their meals. See Fair Hearing Nos. T-09/08-390, M-01/08-46, 14,929, and 6,345. The Board has also noted that the Food Stamp regulations do not mention physical or legal custody or responsibility, and that household composition for

Food Stamps can theoretically change on a month-to-month basis. See Fair Hearing Nos. T-09/08-390 and M-01/08-46.

In this case, the Family Court order is clear that the child's mother is responsible for providing an albeit-slight majority of her son's meals during the child's school year. There is no dispute that she is currently (or at least was at the time of the petitioner's application) receiving Food Stamps in the child's behalf. Although the parental responsibility for meals appears to be split 50/50 at all other times of the year, it cannot be concluded that the Department's denial of the petitioner's application for Food Stamps for the child for any month is contrary to the pertinent regulations. Thus, the Department's decision regarding the petitioner's application to add his son to his Food Stamp grant must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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